

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:09-HC-2011-H

LEE WAYNE HUNT,)
Petitioner,)
v.)
GARY JONES, Superintendent,)
Johnston Correctional Institution,)
Smithfield, North Carolina)
Respondent.)

ORDER

Lee Wayne Hunt (“petitioner”) seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On October 17, 1986, petitioner was convicted by a jury of two counts of first-degree murder and two counts of conspiracy to commit murder and sentenced to two consecutive terms of life imprisonment and two consecutive terms of ten years’ imprisonment. State v. Hunt, 325 N.C. 187 (1989). Respondent has filed motions to dismiss the petition as time barred and for summary judgment [DE # 7, 9]. Petitioner has filed a motion for discovery [DE #17], seeking to depose nine “individuals who may have knowledge of the location of files dealing with” his prosecution.

In addition to the habeas petition pending before this court, petitioner has filed a claim of actual innocence, which is pending before the North Carolina Innocence Inquiry Commission (“Innocence Commission”). On March 11, 2011, respondent informed the court that the Innocence Commission has found forensic evidence relating to petitioner’s case, and intends “to file a motion in state court to have the item tested for DNA.” [DE # 24]. The court has since been advised that

DNA testing is being conducted on certain evidence and that the Innocence Commission is continuing to investigate petitioner's claim of innocence.

In light of the current status of petitioner's claims filed with the Innocence Commission, the court finds it appropriate to stay this case at this time. Accordingly, petitioner's habeas petition is HELD IN ABEYANCE and all deadlines and proceedings thereto are STAYED pending further order of the court. The court DIRECTS the parties to file a joint status report every six months, and DIRECTS the Clerk to serve a copy of this order on the Innocence Commission as well as the parties.

This the 18th day of November 2011.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
TEC